

Application No. 09/312,073  
Amendment and Response to Notice of  
Non-Compliant Amendment dated March 16, 2004  
Reply to Notice... of February 20, 2004

### REMARKS

Applicants have received a Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on February 20, 2004, indicating that the Amendment filed on December 17, 2003, was deficient in that "claim 1 should have been independent".<sup>1</sup>

On March 2, 2004, Applicants discussed this Notice with the Examiner in charge of this application, and pointed out that in view of M.P.E.P. § 608.01(n)(IV), it would not be proper to object to claim 1 only on grounds claim 1 was not independent.

The Examiner, after reviewing this application, agreed, but then pointed out that the language of claim 1 did not accurately reflect the revisions made earlier during prosecution of this application, and that this was why the December 17 Amendment had been deemed non-compliant. The Examiner is thanked for such clarification.

To expedite examination, Applicants have cancelled claim 1, as well as claims 3, 4 and 6-10, which appear to suffer from the same deficiency. The subject matter of these cancelled claims has been presented in new claims 126-133. No new matter has been added.

Accordingly, claims 11-39, 41-65, 67-73, 83-90, 92, 93, 95-101, 103, and 106-133 are now pending in this application and of these claims, claims 11-14, 36-39, 41-57, 62-65, 67-73, 83-90, 92, 93, 95, 96 and 114-125 have been allowed. Claims 15, 36 (allowed), 57 (allowed), 58, 62 (allowed), 87 (allowed), 92 (allowed), 95 (allowed) and 97 remain independent.

---

<sup>1</sup> As a general matter, Applicants submit it is acceptable for a dependent claim to precede the independent claim upon which it is based. In this regard, M.P.E.P. § 608.01(n)(IV) states in part:

During prosecution, the order of claims may change and be in conflict with the requirement that dependent claims refer to a preceding claim. Accordingly, the numbering of dependent claims and the numbers of preceding claims referred to in dependent claims should be carefully checked when claims are renumbered upon allowance.

Application No. 09/312,073  
Amendment and Response to Notice of  
Non-Compliant Amendment dated March 16, 2004  
Reply to Notice... of February 20, 2004

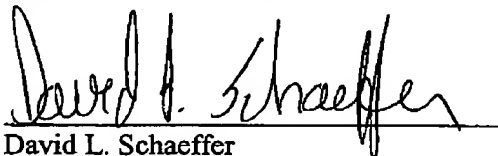
It should be noted that now-cancelled claims 1, 3, 4 and 6-10 were allowed in the Office Action mailed on September 17, 2003. Consequently, new claims 126-133, which correspond to claims 1, 3, 4 and 6-10, respectively, are considered to be allowable for the same reasons.

With regard to the claims not yet found by the Examiner to be allowable, Applicants respectfully submit that those claims are allowable for the reasons set forth in the December 17 Amendment, which reasons are incorporated by reference herein.

Applicants have made a diligent effort to place this application in condition for allowance and submit that the claims are in condition for allowance. If for any reason, however, the Examiner should deem that this application is not in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below to resolve any outstanding issues prior to issuing a further Office Action.

No fees are believed to be presently due. Nevertheless, the Commissioner is authorized to charge any fee now or hereafter due in connection with the prosecution of this application to Deposit Account No. 19-4709.

Respectfully submitted,



David L. Schaeffer  
Registration No. 32,716  
Attorney for Applicants  
STROOCK & STROOCK & LAVAN LLP  
180 Maiden Lane  
New York, New York 10038-4982  
(212) 806-5400

09/29/2004 11:05 FAX 212 806 6578  
03/16/2004 12:11 FAX

STROOCK  
STROOCK

027  
001

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO 1236  
CONNECTION TEL 917038729306  
CONNECTION ID  
ST. TIME 03/16 12:07  
USAGE T 04'33  
PGS. SENT 25  
RESULT OK

STROOCK

FACSIMILE

DATE

March 16, 2004

TO	COMPANY NAME	FAX NO.	PHONE NO.
Examiner Michael P. Nghiem Group 2863	U.S. Patent and Trademark Office	703-872-9306	571-272-2277

TOTAL NO. OF PAGES	25
FROM	David L. Schaeffer, Reg. No. 32,716
SENDER'S FAX NO.	212-806-6006
SENDER'S PHONE NO.	212-806-6677
SENDER'S EMAIL	dschaeffer@stroock.com
ROOM NO.	3869
ATTORNEY NO.	3551
CLIENT/MATTER NAME	U.S. Patent Appln. No. 09/312,073
CLIENT/MATTER NO.	448563/0163

MESSAGE

Applicants submit herewith the following:

1. Amendment and Response to Notice of Non-Compliant Amendment (23 pgs); and
2. Certificate of Transmission by Facsimile (1 pg).